

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

UNITED STATES OF AMERICA)	CRIMINAL NO.: 4:15-CR-070-BHH
)	
)	
v.)	
)	
MARCUS DALTON HEMINGWAY,)	
a/k/a "Face")	
ROBERT EARL HEMINGWAY, JR.,)	
a/k/a "Booda")	

FINAL ORDER OF FORFEITURE AS TO
1808 NINTH AVENUE, CONWAY, SC

This matter is before the Court upon motion of the United States for a final order of forfeiture as to Marcus Dalton Hemingway and Robert Earl Hemingway, Jr. ("Defendants"). The United States makes this motion after the Defendants' conviction of conspiracy to commit drug trafficking, the entry of Preliminary Orders of Forfeiture, and based upon the following:

1. On April 14, 2015, a Federal Grand Jury in the District of South Carolina returned a Superseding Indictment in which the Defendants were charged with conspiracy to commit drug trafficking, in violation of 21 U.S.C. §§ 846 and 841(a)(1).
2. The Superseding Indictment provided that upon conviction, certain property enumerated therein, or equivalent substitute assets, would be subject to forfeiture to the United States, pursuant to Title 21, United States Code, Sections 853 and 881, and Title 28, United States Code, Section 2461(c).
3. On July 14, 2015, Marcus Dalton Hemingway pled guilty to the conspiracy to commit drug trafficking charge. On January 6, 2016, Robert Earl Hemingway, Jr. pled

guilty to the conspiracy to commit drug trafficking charge.

4. Based upon the Defendants' convictions, this court entered Preliminary Orders of Forfeiture (ECF Nos. 229 and 281), ordering the Defendants to forfeit all of their right, title and interest in the below-described properties to the United States in accordance with 21 U.S.C. § 853, subject to third party claims:

Cash/Currency¹:

1. \$106,830.00 US Currency seized on April 9, 2015
Seized from: Bobby Wayne Hemingway and Nicolette Hemingway
Asset ID: 15-DEA-611658
2. \$56,384.00 US Currency seized on April 9, 2015
Seized from Robert Earl Hemingway, Jr.
Asset ID: 15-DEA-611661

Real Property:

1. Foster Avenue, Lot 9²
Conway, South Carolina

Real property with the address of Foster Avenue, Conway, South Carolina, in the name of Bobby Hemingway and Nicholette Hemingway formally described as follows:

All and singular that certain piece, parcel or lot of land near the Town of Conway, Conway Township, county and State aforesaid and being Lot No. 9 of block D of the Brantley Lands, as shown by map by S.D. Cox dated April 11, 1936, in the office of the RNC for Horry.

1 The \$106,830.00 and \$56,384.00 in US Currency have been administratively forfeited.

2 Due to unresolved matters regarding the forfeiture of real property identified as Foster Avenue, Lot 9, the government is not pursuing a final order of forfeiture for the property at this time. When those issues are resolved, the government will submit a separate motion and order pertaining to the property.

This being the same property heretofore conveyed to John Gore by deed in the office of the Register of Deeds for Horry County, SC, in Deed Book 2477 at page 0880.

TMS Number: 136-04-01-011
Asset ID: 15-DEA-611216

2. 1808 9th Avenue
Conway, South Carolina

Real property with the address of 1808 Ninth Avenue, Conway, South Carolina, in the name of Bobby W. Hemingway, formally described as follows:

ALL AND SINGULAR, all that certain piece or tract of land, and being situated in the town of Conway, at the corner of Ninth Avenue and Gasoline Alley. The said lot is carved from Lot #2 on a map of three lots of Mrs. Cuba N. Rutledge by J.F. Thomas, dated August, 1955, revised January 1, 1956 and recorded in the Office of the Clerk of Court for Horry County Plat book 27 at Page 59. The lot hereby conveyed is more particularly described as follows:

Beginning at the Northern corner of the intersection of Gasoline Alley and Ninth Avenue, said corner being marked by an Iron N; thence North 45 degrees 33 minutes West along the Northeastern edge of Gasoline Alley 100 feet to a point; thence North 46 degrees 30 minutes East for a distance of 44.5 feet to a point; thence South 46 degrees 33 minutes East for a distance of 100 feet to a point on the Northwestern edge of Ninth Avenue for a distance of 44.5 feet to Iron N., the beginning point.

The said lot is bounded on the Northwest and Northeast by remaining portion of said Lot #2 as shown on the above-mentioned map, on the Southeast by Ninth Avenue and on the Southwest by Gasoline Alley.

TMS Number: 13-705-08-042
Asset ID: 15-DEA-611215

5. The Preliminary Orders of Forfeiture as to the Defendants directed the United Marshals Service to seize the above-referenced properties and directed the United States to publish Notice of the Court's Order and of the intent of the United States to dispose of the properties in accordance with law. The Preliminary Orders of Forfeiture

also provided that following publication and upon adjudication of all third-party interests in the said forfeited properties, the Court would enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n).

6. The Order directed the United States to publish notice of the court's Order and intent of the United States to dispose of the properties in accordance with law. The Order also provided that following publication, and upon adjudication of all third-party interests in the said properties, the court would enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n).

7. Beginning on May 25, 2016, and running at least 18 hours per day through June 23, 2016, as required by Rule G(4)(a)(iv)(c) of the Supplemental Rules of Admiralty or Maritime Claims and Asset Forfeiture Action, the United States published notice of the forfeiture on the government website "www.forfeiture.gov", a website of general circulation within the United States and the State of South Carolina, notifying any person, other than the Defendants in this case, claiming interest in the forfeited property that they must file a Petition within sixty (60) days of the notice for a hearing to adjudicate the validity of any alleged legal interest in the property seized. No petitions or other responsive pleadings have been filed by any persons based upon notice by publication, and the deadline for filing a claim based upon such notice expired on July 24, 2016, with no extensions having been requested, consented to, or granted by the court.

8. On August 11, 2016, Notice of Forfeiture (ECF Nos. 279 and 280) was served to Bobby W. Hemingway, at 1507 Hemingway Street, Apt. 387, Myrtle Beach, South Carolina; OneMain Financial, at 2676 Church Street, Suite C, Conway, South Carolina; Conway Police Department, Post Office Drawer 1075, Conway, South Carolina,

and to the Current Owner/Occupant at 1808 9th Avenue, Conway, South Carolina, regarding the property located at 1808 9th Avenue, Conway, South Carolina.

9. The United States has received no claims or petitions as to the property described below, and the time to file such claims or petitions has passed as provided for by the provisions of 21 U.S.C. § 853(n); therefore, all claims to such property are forever foreclosed and barred.

10. The Court has previously determined that the Defendants have an interest in the property set forth below, and that the Government has established the requisite nexus between the said property and the offenses for which the Defendants have been convicted; therefore, the said property shall be forfeited to the United States pursuant to 21 U.S.C. §§ 853 and 881, and 28 U.S.C. § 2461.

NOW THEREFORE, upon motion of the United States and for good cause shown, It is hereby ORDERED, ADJUDGED and DECREED that:

1. All right, title and interest in and to the following property is hereby forfeited to the United States of America; and the said property shall be disposed of by the United States Marshals Service in accordance with the law:

Real Property:

1. 1808 9th Avenue
Conway, South Carolina

Real property with the address of 1808 Ninth Avenue, Conway, South Carolina, in the name of Bobby W. Hemingway, formally described as follows:

ALL AND SINGULAR, all that certain piece or tract of land, and being situated in the town of Conway, at the corner of Ninth Avenue and Gasoline Alley. The said lot is carved from Lot #2 on a map of three lots of Mrs. Cuba N. Rutledge by J.F. Thomas, dated August, 1955, revised January 1, 1956

and recorded in the Office of the Clerk of Court for Horry County Plat book 27 at Page 59. The lot hereby conveyed is more particularly described as follows:

Beginning at the Northern corner of the intersection of Gasoline Alley and Ninth Avenue, said corner being marked by an Iron N; thence North 45 degrees 33 minutes West along the Northeastern edge of Gasoline Alley 100 feet to a point; thence North 46 degrees 30 minutes East for a distance of 44.5 feet to a point; thence South 46 degrees 33 minutes East for a distance of 100 feet to a point on the Northwestern edge of Ninth Avenue for a distance of 44.5 feet to Iron N., the beginning point.

The said lot is bounded on the Northwest and Northeast by remaining portion of said Lot #2 as shown on the above-mentioned map, on the Southeast by Ninth Avenue and on the Southwest by Gasoline Alley.

TMS Number: 13-705-08-042
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2. Pursuant to U.S.C. § 853(n), clear title in and to the above-described property is vested in the United States of America, its successors and assigns, and no other right, title or interest exists therein. All other claims to the above-described property are forever foreclosed and barred, and the said real property shall be disposed of by the United States Marshals Service in accordance with the law.

3. The United States Marshals Service is hereby directed to seize the above real property as directed by the United States Attorney's Office, to be held by the United States Marshal Service in its secure custody and control pending sale of the property. The United States Marshals Service is authorized to enter the said premises immediately for purposed of securing and maintaining the real property, conducting inspections, appraisals and videotaping the real property.

4. This Order shall serve as a Writ of Entry and Inspection, authorizing the Drug Enforcement Administration and the United States Marshal Service, and their

authorized representatives to enter on to and in to the premises of the above-described real property as necessary for purposes of conducting inspections, appraisals and videotaping the property, to record and document the condition, value and maintenance of the property until these proceedings are concluded. Any occupants shall be served with a copy of this Order and provided notice of the forfeiture of the said property.

5. The United States Marshals Service shall serve any occupants of the real property with a copy of this Order. This Order specifically places the occupants on notice for the criminal penalties and prohibitions in 18 U.S.C. § 2232, which subjects anyone to a fine and/or imprisonment who destroys or removes property including fixtures to real property, subject to seizure to prevent the property from being seized.

6. Any occupants residing at the said real property shall vacate the premises within thirty (30) days after service of this Final Order of Forfeiture upon said occupants, or face further eviction proceedings.

7. The Court shall retain jurisdiction to enforce this Order and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

8. The Clerk, United States District Court, shall provide one (1) certified copy of the Order to the United States Attorney's Office, Asset Forfeiture Unit.

AND IT IS SO ORDERED.

s/ Bruce Howe Hendricks
BRUCE HOWE HENDRICKS
UNITED STATES DISTRICT JUDGE

September 21, 2016